

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
1:18-cv-309-FDW**

THIS MATTER is before the Court on Plaintiff's Motion to Disqualify, (Doc. No. 3), and on the Court's issuance of a Notice of Deficiency, (Doc. No. 4).

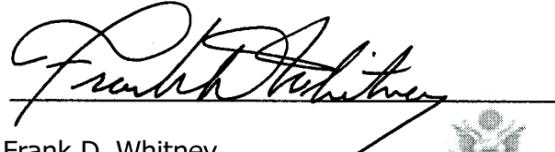
Plaintiff filed a Complaint pursuant to 42 U.S.C. § 1983 and failed to pay the \$400 filing fee or file a sufficient motion to proceed *in forma pauperis*. See (Doc. No. 2). On October 7, 2018, the Clerk of Court issued a Notice of Deficiency informing Plaintiff that the filing fee or a sufficient application to proceed *in forma pauperis* had not been filed and making such due by November 28, 2018. (Doc. No. 4). Plaintiff has not filed a motion to proceed *in forma pauperis* or paid the filing fee to date. Plaintiff must either pay the \$400 filing fee or file an application to proceed *in forma pauperis* within **ten (10) days** of the date of this Order, or this action will be dismissed without prejudice. See generally Fed. R. Civ. P. 41(b); 28 U.S.C. § 1915.

Plaintiff has filed a Motion to Disqualify in which he asks that the North Carolina Department of Justice and North Carolina Department of Public Safety General Counsel's Office be disqualified from providing legal assistance and advice to Defendant in this case. Plaintiff's Motion will be denied as premature because the Complaint has not been screened on initial review and no attorney for Defendant has yet appeared.

IT IS, THEREFORE, ORDERED that:

1. Plaintiff shall have **ten (10) days** from the date of this Order in which to either pay the \$400 filing fee or file an application to proceed *in forma pauperis*.
2. The Clerk is directed to mail a copy of this Order and an application to proceed *in forma pauperis* to Plaintiff.
3. Plaintiff's Motion to Disqualify, (Doc. No. 3), is **DENIED** as premature.

Signed: December 3, 2018



Frank D. Whitney
Chief United States District Judge

